



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/172938

PRELIMINARY RECITALS

Pursuant to a petition filed March 21, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the petitioner's FoodShare (FS) allotment for March and April 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. In February 2016 the petitioner reported that his two sons were living with him. His sons were not previously in his household. The agency requested verification of this with a due date of February 28, 2016.

3. The petitioner failed to verify that his sons were living with him in February 2016. In March 2016 the petitioner provided verification.
4. On March 18, 2016 the agency sent the petitioner a notice stating that his monthly FS benefits would increase to \$511. The petitioner previously received \$189 in monthly FS benefits.
5. On March 21, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

The FS regulations direct that all reported changes that cause an increase in FS benefits including person additions are effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. *FSWH*, 6.1.3.3. However, if verifications are not received within 10 days, the change is effective the first of the month following the month verifications are received. *Id.*

In this case the petitioner reported that his household size increased from one person to three people in February 2016. The agency gave him 11 days to verify this information. The petitioner failed to provide timely verification. In March 2016 the petitioner provided the requested verification. This caused his FS benefits to increase effective April 1, 2016. This is correct. The petitioner argues that his family court case worker did not get him the verification timely, and thus he could not timely provide that verification to the agency. The petitioner never asked for an extension of time or assistance in providing the requested verification. Thus, the agency correctly followed the FS regulations and policies in this case.

CONCLUSIONS OF LAW

The agency correctly determined the petitioner's FS allotment for March and April 2016.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 3, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability